

(3) The local educational agency shall notify the individual and the individual's parents of the transfer of rights.

History: 1997 a. 164.

**115.81 Children in child caring institutions. (1) DEFINITIONS.** In this section:

(a) "County department" means a county department under s. 46.215, 46.22 or 46.23.

(b) "Responsible local educational agency" means the local educational agency that was responsible for providing a free, appropriate public education to the child before the placement of the child in a residential care center for children and youth except that if the child resided in an institution or facility operated by the department of health and family services, a Type 1 secured correctional facility, as defined in s. 938.02 (19), or a Type 1 prison, as defined in s. 301.01 (5), before the placement of the child in a residential care center for children and youth, "responsible local educational agency" means the school district in which the residential care center for children and youth is located.

(2) **ESTABLISHMENT OF PROGRAM.** Subject to the approval of the division, a residential care center for children and youth may establish and maintain special education and related services for children with disabilities.

(3) **REFERRAL.** (a) Whenever a county department recommends to a court that a child be placed in a residential care center for children and youth or whenever a state agency anticipates placing a child in a residential care center for children and youth, the county department or state agency shall notify the responsible local educational agency.

(b) For each child identified in a notice under par. (a), the responsible local educational agency shall do all of the following:

1. If the child is a child with a disability, as soon as reasonably possible and after consulting with a county department or a state agency, as appropriate, appoint an individualized education program team to review and revise, if necessary, the child's individualized education program and develop an educational placement offer.

2. If the child has not been identified as a child with a disability:

a. Appoint staff to review the child's education records and develop a status report for the child and send a copy of the report to the county department or state agency, as appropriate, within 30 days after receiving the notice under par. (a).

b. If the responsible local educational agency has reasonable cause to believe that the child is a child with a disability, appoint an individualized education program team to conduct an evaluation of the child under s. 115.782. The responsible local educational agency may include appropriately licensed staff of the residential care center for children and youth in the team if that staff is available. The individualized education program team shall conduct the evaluation. If the individualized education program team determines that the child is a child with a disability, the individualized education program team, in consultation with a county department or a state agency, as appropriate, shall develop an individualized education program and an educational placement offer.

(4) **RESPONSIBILITY FOR EDUCATIONAL PLACEMENT.** Whenever the responsible local educational agency offers an educational placement in a residential care center for children and youth under sub. (3) (b) 1. or 2. b., all of the following apply:

(a) The responsible local educational agency shall do all of the following:

1. Ensure that the child receives a free appropriate public education.

2. Ensure that the child's treatment and security needs are considered when determining the least restrictive environment for the child.

3. While the child resides at a residential care center for children and youth, appoint an individualized education program

team to conduct reevaluations of the child in the manner provided under s. 115.782 (4).

4. While the child resides at a residential care center for children and youth, after consulting with the residential care center for children and youth and a county department or a state agency, as appropriate, refer the child to another local educational agency if the responsible local educational agency determines that the child's special education needs may be appropriately served in a less restrictive setting in the other local educational agency.

5. If the child is leaving the residential care center for children and youth, assign staff or an individualized education program team to develop a reintegration plan for the child in cooperation with a county department and staff of the residential care center for children and youth.

(b) The county department or state agency, as appropriate, shall do all of the following:

1. Consider the child's educational needs when selecting a residential care center for children and youth for the child.

2. In cooperation with the responsible local educational agency and staff of the residential care center for children and youth, participate in the individualized education program team evaluation of the child and the development of the individualized education program for the child.

3. Notify the local educational agency that will be responsible for providing a free, appropriate public education to the child whenever the county department or state agency anticipates removing the child from the residential care center for children and youth.

4. In cooperation with the responsible local educational agency and staff of the residential care center for children and youth, develop a reintegration plan for the child if the child is leaving the residential care center for children and youth.

5. Pay all of the residential care center for children and youth related costs of educating the child while the child resides in the residential care center for children and youth.

(c) Whenever a local educational agency receives a referral under par. (a) 4., the local educational agency shall assign staff to determine whether the child can appropriately receive special education and related services provided in the local educational agency. If the assigned staff determine that the child can appropriately receive special education and related services in the local educational agency, the local educational agency shall provide such services for the child and is eligible for state tuition payments under s. 121.79 (1) (a). If the assigned staff determine that the child cannot appropriately receive special education and related services in the local educational agency, the local educational agency shall keep a written record of the reasons for that determination.

History: 1997 a. 164, 237, 252; 2001 a. 59.

**115.812 Placement disputes; school board referrals; interagency cooperation. (1) PLACEMENT DISPUTES.** If a dispute arises between a local educational agency and the department of health and family services, the department of corrections or a county department under s. 46.215, 46.22 or 46.23, or between local educational agencies under s. 115.81 (4) (c), over the placement of a child, the state superintendent shall resolve the dispute. This subsection applies only to placements in nonresidential educational programs made under s. 48.57 (1) (c) and to placements in child caring institutions made under s. 115.81.

(2) **SCHOOL BOARD REFERRALS.** Annually on or before August 15, each local educational agency shall report to the appropriate county departments under ss. 51.42 and 51.437 the names of children who reside in the local educational agency, are at least 16 years of age, are not expected to be enrolled in an educational program 2 years from the date of the report and may require services described under s. 51.42 or 51.437 (1). This subsection does not affect a local educational agency's responsibility to make services available to children with disabilities.